

SETTLEMENT AGREEMENT

1. INTRODUCTION

1.1 Anthony E. Held, Ph.D., P.E. and Sea Snax

This Settlement Agreement is entered into by and between Anthony E. Held, Ph.D., P.E. (“Held”) and Intellicomp, Inc. dba Nature Snax and/or Sea Snax (“Sea Snax”), with Held and Sea Snax collectively referred to as the “Parties.” Held is an individual residing in California who seeks to promote awareness of exposures to toxic chemicals and to improve human health by reducing or eliminating hazardous substances contained in consumer products. Held alleges that Sea Snax employs ten or more persons and is a person in the course of doing business for purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code §§ 25249.5 *et seq.* (“Proposition 65”).

1.2 General Allegations

Held alleges that Sea Snax has manufactured, imported, sold and/or distributed for sale in California dried seaweed causing an exposure to inorganic arsenic compounds (hereafter “arsenic”) without the requisite Proposition 65 health hazard warnings. Arsenic is listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer.

1.3 Product Description

The product that is covered by this Settlement Agreement is SeaMama Hijiki by SeaSnax, UPC #6 09722 79854 9 that is manufactured, imported, sold and/or distributed for sale in California by Sea Snax (hereinafter the “Products”).

1.4 Notice of Violation

On March 26, 2014, Held served Sea Snax and certain requisite public enforcement agencies with a “60-Day Notice of Violation” (“Notice”) that provided the recipients with notice of alleged violations of Proposition 65 based on Sea Snax’s alleged failure to warn its customers, consumers, workers and other individuals that the Products exposed users in California to

arsenic. To the best of the Parties' knowledge, no public enforcer has commenced or is diligently prosecuting the allegations set forth in the Notice.

1.5 No Admission

The Parties enter into this Settlement Agreement as a full and final settlement of all claims that were raised in the Notice. Sea Snax denies the material factual and legal allegations contained in Held's Notice and maintains that all products that it has manufactured, imported, distributed, and/or sold in California, including the Products, have been and are in compliance with all laws, and are safe to consume. By execution of this Settlement Agreement and agreeing to comply with its terms, Sea Snax does not admit any facts or conclusions of law, including, but not limited to, any facts or conclusions of law suggesting or demonstrating any violations of Proposition 65 or any other statutory, common law or equitable requirements relating to alleged arsenic in the Products, such being specifically denied by Sea Snax. Nothing in this Settlement Agreement shall be construed as an admission by Sea Snax of any fact, finding, conclusion, issue of law, or violation of law, nor shall compliance with this Settlement Agreement constitute or be construed as an admission by Sea Snax of any fact, finding, conclusion, issue of law, or violation of law. However, this section shall not diminish or otherwise affect Sea Snax's obligations, responsibilities, and duties under this Settlement Agreement.

1.6 Effective Date

For purposes of this Settlement Agreement, the term "Effective Date" shall mean August 31, 2014.

2. INJUNCTIVE RELIEF: REFORMULATION AND WARNINGS

2.1 Reformulation Standards

For purposes of this Settlement Agreement only, Reformulated Products are defined as Products containing arsenic in concentrations less than 5 parts per billion ("ppb") when analyzed pursuant to U.S. Environmental Protection Agency ("EPA") testing methodology 3050B, 6010B,

6020 inductively coupled plasma-mass spectrometry, or any other methodology utilized by federal or state agencies for the purpose of determining the arsenic content in a solid substance.

2.2 Reformulation or Warning Commitment

As of the Effective Date, all Products manufactured, imported, distributed, sold and/or offered for sale in the State of California by, or on behalf of, Sea Snax shall be either: (a) Products that qualify as Reformulated Products as defined in Section 2.1 above; or (b) shall carry appropriate Proposition 65 health hazard warnings as described in Section 2.3 below.

2.3 Product Warnings

Commencing on the Effective Date, for all Products other than Reformulated Products, Sea Snax shall provide clear and reasonable warnings as set forth in subsections 2.3(a) and (b). Each warning shall be prominently placed with such conspicuousness as compared with other words, statements, designs, or devices as to render it likely to be read and understood by an ordinary individual under customary conditions before purchase or use. Each warning shall be provided in a manner such that the consumer or user understands to which *specific* Product the warning applies, so as to minimize the risk of consumer confusion.

(a) Retail Store Sales.

(i) Product Labeling. Sea Snax or its supplier shall affix a warning to the packaging, labeling, or directly on each Product sold in retail outlets in California by Sea Snax that states:

WARNING: This product contains arsenic, a chemical known to the State of California to cause cancer.

For Products that also contain one or more reproductive toxicants, the warning label shall state:

WARNING: This product contains arsenic, a chemical known to the State of California to cause cancer, as well as chemicals known to the State of California to cause birth defects or other reproductive harm.

For Products that also contain one or more carcinogens and reproductive toxicants, the warning label shall state:

WARNING: This product contains arsenic, a chemical known to the State of California to cause cancer, as well as chemicals known to the State of California to cause cancer and birth defects (or other reproductive harm).

(ii) **Point-of-Sale Warnings.** Alternatively, Sea Snax may provide warning signs in the form below to its customers in California with instructions to post the warnings in close proximity to the point of display of the Products. Such instruction sent to Sea Snax' customers shall be sent by certified mail, return receipt requested..

WARNING: This product contains arsenic, a chemical known to the State of California to cause cancer.

For Products that also contain one or more reproductive toxicants, the warning shall state:

WARNING: This product contains arsenic, a chemical known to the State of California to cause cancer, as well as chemicals known to the State of California to cause birth defects or other reproductive harm.

For Products that also contain one or more carcinogens and reproductive toxicants, the warning shall state:

WARNING: This product contains arsenic, a chemical known to the State of California to cause cancer, as well as chemicals known to the State of California to cause cancer and birth defects (or other reproductive harm).

Where more than one Product is sold in proximity to other like items or to those that do not require a warning (*e.g.*, Reformulated Products as defined in Section 2.1), the following statement shall be used:¹

¹ For purposes of the Settlement Agreement, "sold in proximity" shall mean that the Product and another similar product are offered for sale close enough to each other that the consumer, under customary conditions of purchase, could not reasonably determine which of the two products is subject to the warning sign.

WARNING: The following products contain arsenic, a chemical known to the State of California to cause cancer:

[list products for which warning is required]

For Products that also contain one or more reproductive toxicants, the warning shall state:

WARNING: The following products contain arsenic, a chemical known to the State of California to cause cancer, as well as chemicals known to the State of California to cause birth defects or other reproductive harm.

[list products for which warning is required]

For Products that also contain one or more carcinogens and reproductive toxicants, the warning shall state:

WARNING: The following products contain arsenic, a chemical known to the State of California to cause cancer, as well as chemicals known to the State of California to cause cancer and birth defects (or other reproductive harm).

[list products for which warning is required]

(b) Mail Order Catalog and Internet Sales. In the event that Sea Snax sells Products via mail order catalog and/or the internet, to customers located in California, after the Effective Date, that are not Reformulated Products, Sea Snax shall provide warnings for such Products sold via mail order catalog or the internet to California residents. Warnings given in the mail order catalog or on the internet shall identify the *specific* Product to which the warning applies as further specified in Sections 2.3(b)(i) and (ii).

(i) Mail Order Catalog Warning. Any warning provided in a mail order catalog shall be in the same type size or larger than the Product description text within the catalog. The following warning shall be provided on the same page and in the same location as the display and/or description of the Product:

WARNING: This product contains arsenic, a chemical known to the State of California to cause cancer.

For Products that also contain one or more reproductive toxicants, the warning shall state:

WARNING: This product contains arsenic, a chemical known to the State of California to cause cancer, as well as chemicals known to the State of California to cause birth defects or other reproductive harm.

For Products that also contain one or more carcinogens and reproductive toxicants, the warning shall state:

WARNING: This product contains arsenic, a chemical known to the State of California to cause cancer, as well as chemicals known to the State of California to cause cancer and birth defects (or other reproductive harm).

Where it is impracticable to provide the warning on the same page and in the same location as the display and/or description of the Product, Sea Snax may utilize a designated symbol to cross reference the applicable warning and shall define the term “designated symbol” with the following language on the inside of the front cover of the catalog or on the same page as any order form for the Product(s):

WARNING: Certain products identified with this symbol ▼ and offered for sale in this catalog contain arsenic, a chemical known to the State of California to cause cancer.

For Products that also contain one or more reproductive toxicants, the warning shall state:

WARNING: Certain products identified with this symbol ▼ and offered for sale in this catalog contain arsenic, a chemical known to the State of California to cause cancer, as well as chemicals known to the State of California to cause birth defects or other reproductive harm.

For Products that also contain one or more carcinogens and reproductive toxicants, the warning shall state:

WARNING: Certain products identified with this symbol ▼ and offered for sale in this catalog contain arsenic, a chemical known to the State of California to cause cancer, as well as chemicals known to the State of California to cause cancer and birth defects (or other reproductive harm).

The designated symbol must appear on the same page and in close proximity to the display and/or description of the Product. On each page where the designated symbol appears, Sea Snax must provide a header or footer directing the consumer to the warning language and definition of the designated symbol.

(ii) **Internet Website Warning.** A warning shall be given in conjunction with any sale of the Products via the internet, which warning shall appear either: (a) on the same web page on which a Product is displayed; (b) on the same web page as the order form for a Product; (c) on the same page as the price for any Product; or (d) on one or more web pages displayed to a purchaser during the checkout process. The following warning statement shall be used and shall appear in any of the above instances adjacent to or immediately following the display, description, or price of the Product for which it is given in the same type size or larger than the Product description text:

WARNING: This product contains arsenic, a chemical known to the State of California to cause cancer.

For Products that also contain one or more reproductive toxicants, the warning shall state:

WARNING: This product contains arsenic, a chemical known to the State of California to cause cancer, as well as chemicals known to the State of California to cause birth defects or other reproductive harm.

For Products that also contain one or more carcinogens and reproductive toxicants, the warning shall state:

WARNING: This product contains arsenic, a chemical known to the State of California to cause cancer, as well as chemicals known to the State of California to cause cancer and birth defects (or other reproductive harm).

Alternatively, the designated symbol may appear adjacent to or immediately following the display, description, or price of the Product for which a warning is being given, provided that the following warning statement also appears elsewhere on the same web page, as follows:

WARNING: Products identified on this page with the following symbol ▼ contain arsenic, a chemical known to the State of California to cause cancer.

For Products that also contain one or more reproductive toxicants, the warning shall state:

WARNING: This product contains arsenic, a chemical known to the State of California to cause cancer, as well as chemicals known to the State of California to cause birth defects or other reproductive harm.

For Products that also contain one or more carcinogen and reproductive toxicants, the warning shall state:

WARNING: Products identified on this page with the following symbol ▼ contain arsenic, a chemical known to the State of California to cause cancer, as well as chemicals known to the State of California to cause cancer and birth defects (or other reproductive harm).

(c) **Additional Warning.** In addition to the above prescribed warnings, all Products manufactured, imported, distributed, sold, and/or offered for sale in California by or on behalf of Sea Snax which do not qualify as Reformulated Products shall also contain the following warning statement:

Due to the presence of arsenic, users should soak the dried seaweed in water for a minimum of 30 minutes and squeeze out the water/rinse thoroughly prior to consumption of the seaweed.

3. MONETARY PAYMENTS

3.1 Civil Penalties Pursuant To Health & Safety Code § 25249.7(B)

In settlement of all the claims referred to in this Settlement Agreement, Sea Snax shall pay a total of \$10,000 in civil penalties pursuant to the factors set forth under Proposition 65 in accordance with this Section. Each penalty payment will be allocated in accordance with California Health & Safety Code § 25249.12(c)(1) and (d), with 75% of the funds remitted to the

California Office of Environmental Health Hazard Assessment (“OEHHA”) and the remaining 25% of the penalty remitted to Held.

3.1.1 Initial Civil Penalty

On or before the Effective Date, Sea Snax shall pay an initial civil penalty in the amount of \$2,000. Sea Snax shall provide its payment in two checks to: (a) “OEHHA” in the amount of \$1,500; and (b) “Anthony E. Held, Ph.D., P.E., Client Trust Account” in the amount of \$500. All penalty payments shall be delivered to the addresses listed in Section 3.3 below.

3.1.2 Final Civil Penalty

On or before November 30, 2014, SeaSnax shall pay a final civil penalty in the amount of \$8,000. The final civil penalty shall be waived in its entirety, however, if an Officer of Sea Snax provides Held with written certification that as of the date of such certification and continuing into the future, all Products manufactured, imported, distributed, sold and offered for sale in California by, or on behalf of, Sea Snax are Reformulated Products. Held must receive such certification on or before November 15, 2014, and time is of the essence. Unless waived, the final civil penalty shall be apportioned in accordance with California Health & Safety Code § 25249.12 (c)(1) & (d), with 75% of these funds remitted to OEHHA and the remaining 25% of the penalty remitted to Held, as provided by California Health & Safety Code § 25249.12(d). Unless waived, SeaSnax shall provide its payment in two checks to: (a) “OEHHA” in the amount of \$6,000; and (b) “The Chanler Group in Trust for Held” in the amount of \$2,000. All penalty payments shall be delivered to the addresses listed in Section 3.3 below.

3.2 Reimbursement of Fees and Costs

The parties acknowledge that Held and his counsel offered to resolve this dispute without reaching terms on the amount of fees and costs to be reimbursed to them, thereby leaving this fee reimbursement issue to be resolved after the material terms of the agreement had been settled. Shortly after the other settlement terms had been finalized, Sea Snax expressed a desire to resolve the fee and cost issue. The parties then attempted to (and did) reach an accord on the

compensation due to Held and his counsel under general contract principles and the private attorney general doctrine codified at California Code of Civil Procedure section 1021.5 for all work performed through the mutual execution of this agreement. Sea Snax shall pay \$25,000 for fees and costs incurred as a result of investigating, bringing this matter to Sea Snax's attention, negotiating a settlement in the public interest, and seeking court approval. Sea Snax shall make the check payable to "The Chanler Group" and shall deliver payment on or before the Effective Date, to the address listed in Section 3.3.1(a) below.

3.3 Payment Procedures

3.3.1 Issuance of Payments

(a) All payments owed to Held and his counsel, pursuant to Sections 3.1 and 3.2 shall be delivered to the following payment address:

The Chanler Group
Attn: Proposition 65 Controller
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710

(b) All payments owed to OEHHA, pursuant to Section 3.1, shall be delivered directly to OEHHA (Memo line "Prop 65 Penalties") at one of the following addresses, as appropriate:

For United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
P.O. Box 4010
Sacramento, CA 95812-4010

For Non-United States Postal Service Delivery:

Mike Gyurics
Fiscal Operations Branch Chief
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento, CA 95814

3.3.2 Proof of Payment. A copy of each check payable to OEHHA shall be mailed, simultaneous with payment, to The Chanler Group at the address set forth in Section 3.3.1(a) above, as proof of payment to OEHHA.

4. CLAIMS COVERED AND RELEASED

4.1 Held's Release of Sea Snax

This Settlement Agreement is a full, final and binding resolution between Held and Sea Snax of any violation of Proposition 65 that was or could have been asserted by Held on behalf of himself, his past and current agents, representatives, attorneys, successors and/or assignees, against Sea Snax, its parents, subsidiaries, affiliated entities under common ownership, directors, officers, employees, attorneys and each entity to whom Sea Snax directly or indirectly distributes or sells Products including, but not limited to, Rainbow Grocery Cooperative, Inc., and all other downstream distributors, wholesalers, customers, retailers, franchisees, cooperative members and licensees ("Releasees"), based on their failure to warn about alleged exposures to arsenic contained in the Products that were manufactured, imported, distributed, sold and/or offered for sale by Sea Snax in California before the Effective Date. The Parties further understand and agree that this Section 4.1 release shall not extend upstream to any entities, distributors or suppliers who sold the Products to Sea Snax, except as to entities that are within Sea Snax's same corporate family. The Parties agree that compliance with the terms of this Settlement Agreement is compliance with Proposition 65 with respect to alleged arsenic in the Products manufactured and/or packaged prior to the Effective Date. This release is provided in Held's individual capacity and is not a release on behalf of the public.

In further consideration of the promises and agreements herein contained, Held on behalf of himself, his past and current agents, representatives, attorneys, successors and/or assignees, hereby waives all of his rights to institute or participate in, directly or indirectly, any form of legal action and releases all claims that he may have including, without limitation, all actions, and causes of action, in law or in equity, suits, liabilities, demands, obligations, damages, costs,

finer, penalties, losses or expenses -- including, but not limited to, investigation fees, expert fees and attorneys' fees, but exclusive of fees and costs on appeal -- limited to and arising under Proposition 65 with respect to arsenic in the Products manufactured, imported distributed, sold and/or offered for sale by Sea Snax before the Effective Date (collectively "claims"), against Sea Snax and the Releasees.

4.2 Sea Snax's Release of Held

Sea Snax, on behalf of itself, its past and current agents, representatives, attorneys, successors and/or assignees, hereby waives any and all claims against Held and his attorneys and other representatives, for any and all actions taken or statements made (or those that could have been taken or made) by Held and his attorneys and other representatives, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against it in this matter or with respect to the Products.

5. SEVERABILITY

If any of the provisions of this Settlement Agreement are held by a court to be unenforceable, the validity of the enforceable provisions remaining shall not be adversely affected.

6. GOVERNING LAW

The terms of this Settlement Agreement shall be governed by the laws of the State of California. In the event that Proposition 65 is repealed, preempted, or is otherwise rendered inapplicable by reason of law generally, or if any of the provisions of this Settlement Agreement are rendered inapplicable or are no longer required as a result of any such repeal or preemption, or rendered inapplicable by reason of law generally as to the Products, then Sea Snax shall provide written notice to Held of any asserted change in the law, and shall have no further obligations pursuant to this Settlement Agreement with respect to, and to the extent that, the Products are so affected. Nothing in this Settlement Agreement shall be interpreted to relieve

Sea Snax from any obligation to comply with any pertinent state or federal law, including all toxic control laws.

7. NOTICES

Unless otherwise specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be in writing and sent by: (i) personal delivery, (ii) first-class registered or certified mail, return receipt requested; or (iii) overnight courier to any party by the other party at the following addresses:

To Sea Snax:

Sea Snax
Attn. Ben Kim
5980 Slauson Ave.
Los Angeles, CA 90040

To Anthony E. Held, Ph.D., P.E.:

Proposition 65 Coordinator
The Chanler Group
2560 Ninth Street
Parker Plaza, Suite 214
Berkeley, CA 94710-2565

With Copy To:

James Robert Maxwell, Esq.
Rogers Joseph O'Donnell
311 California St.
10th Floor
San Francisco, CA 94104

Any Party, from time to time, may specify in writing to the other Party a change of address to which all notices and other communications shall be sent.

8. COUNTERPARTS; FACSIMILE AND SIGNATURES

This Settlement Agreement may be executed in counterparts and by facsimile or pdf signature, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document. A facsimile or pdf signature shall be as valid as the original.

9. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(f)

Held and his attorneys agree to comply with the reporting form requirements referenced in California Health & Safety Code section 25249.7(f).

10. MODIFICATION

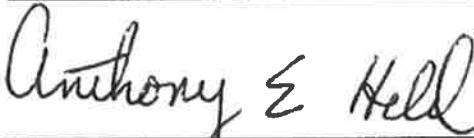
This Settlement Agreement may be modified only by a written agreement of the Parties.

11. AUTHORIZATION

The undersigned are authorized to execute this Settlement Agreement on behalf of their respective parties and have read, understood, and agree to all of the terms and conditions of this Settlement Agreement.


AGREED TO:

Date: August 21, 2014

By: 
Anthony E. Held, Ph.D., P.E.

AGREED TO:

Date: 8/19/2014

By: 
Intellicomp, Inc.